

## TRADING IMPLEMENTATION IN INDONESIA STOCK EXCHANGE, PALEMBANG BRANCH OFFICE ACCORDING TO THE SHARI'AH LAW AND BUSINESS

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**Abstract:** *Investment in the capital market is part of the Islamic finance industry which has an important role in increasing the market share of the financial industry in Indonesia. Thus, it is necessary to explain the trading mechanism on the Indonesian stock exchange involving Islamic stocks. For this reason, researchers conducted research using a normative juridical approach. This research was conducted in Palembang by taking the object on the Indonesia Stock Exchange. The research concludes that: 1) The capital market in Indonesia is categorized into two, namely the conventional capital market and the Islamic capital market; 2) The regulation regarding the Sharia capital market is so complete by the capital market in Indonesia. Starting from the Capital Market Law, the DSN MUI and BAPEPAM fatwas; and 3) The operational mechanism of the Sharia Stock Exchange has been clearly implemented and regulated in this regulation, so that capital market players have understood what is appropriate and non-Sharia-compliant.*

**Keywords:** Sharia Capital Market, Stock Exchange, Stocks, Trading

### The Introduction

As the largest Muslim country in the world, Indonesia is a potential market in the development of the Islamic financial industry. Investment in the capital market, which is part of the shari'ah financial industry, has an important role in increasing the market share of the financial industry in Indonesia (<http://www.idx.co.id>). Although the development is relatively new compared to syari'ah banking and syari'ah insurance, along with the significant growth of the Indonesian capital market industry, it is expected that syari'ah investment in the Indonesian capital market will experience significant growth. The capital market is a means of capital formation and fund accumulation aimed at increasing public participation in directing funds to support national development financing (Kamaruddin, 2004: 17).

As it is generally known that securities transactions, especially shares on the stock exchange, convey orders in an indirect way, but through an intermediary. This transaction is said to be indirect because the transacting party, both the seller and the buyer, represents the transaction activity to other parties.

In fiqh literature it is known as wakalah. The scholars agreed to allow wakalah in terms of buying and selling, whether with wages or not (Umam, 2013: 85). To anticipate this, in Indonesia, the Capital Market is known as the Sharia Stock Exchange which has the Jakarta Islamic Index (JII) syari'ah investment with syari'ah shares listed on the Indonesia Stock Exchange (IDX) (<http://www.ojk.go.id>). The history of JII itself is linked to the Jakarta Stock Exchange where the formation of the Jakarta Islamic Index is the

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result of cooperation between PT. Jakarta Stock Exchange and PT. Danareksa Investment (<http://www.idx.co.id>). JII was developed since 2000. The establishment of the Islamic capital market in Indonesia started the active Jakarta Islamic Index on March 14, 2003. The purpose of forming the Jakarta Islamic Index is different from the Jakarta Stock Exchange, the Jakarta Islamic Index is more shown for the confidence of investors who want to invest in stocks using the sharia method and investors will get a profit. Since November 2007, Bapepam and LK have issued a List of Sharia Securities. (DES) which contains a list of syari'ah stocks in Indonesia (<http://www.bapepam.go.id>).

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With the DES, the public will find it easier to find out what stocks are included in syari'ah stocks in Indonesia. On March 8, 2011, DSN-MUI issued Fatwa No.80 concerning the application of sharia principles in equity trading mechanisms on the regular market of the Stock Exchange. With the existence of this fatwa, it should be able to increase public confidence that syari'ah investment in the Indonesian capital market is in accordance with the principles of syari'ah as long as it meets the criteria in the fatwa. Development. The syari'ah capital market shows progress along with the increase in the index shown in the Jakarta Islamic Index. The increase in the index on the Jakarta Islamic Index, although the value is not as big as the Composite Stock Price Index (IHSG) but the increase in percentage index on the Jakarta Islamic Index is greater than the Composite Stock Price Index in general, for the last eight years from mid-2006 to 2013, the index JII shows a very fluctuating movement pattern over a very large range.

According to MM. Metwally, the existence of the Islamic capital market in general functions: (Soemitro, 2010: 114): 1) Allows the public to participate in business activities by obtaining a share of the profits from the risk, 2) Allows shareholders to sell their shares to get liquidity, 3) Enables the company increasing capital from outside to build and develop its production line, 4) Separating the operations of business activities from short-term fluctuations in share prices that are common features of conventional capital markets, 5) Enabling investment in the economy to be determined by the performance of business activities as reflected in share prices . In the midst of

the growing growth of sharia economic activities in Indonesia, the development of sharia investment activities in the Indonesian capital market is still considered to have not progressed significantly since mid-1997 through the Islamic mutual fund instrument and a number of DSN-MUI fatwas relating to sharia investment activities in the market. capital was also issued, until now the parties carrying out Islamic investment activities in the capital market are still classified as minimal.

The Shariah Online Trading System (SOTS) is an online Sharia stock transaction system that complies with sharia principles in the capital market. SOTS was developed by stock exchange members as a facility or tool for investors who wish to transact shares in sharia manner. SOTS is certified by the DSN-MUI because it is a translation of the DSN-MUI fatwa No. 80 of 2011 concerning the Application of Sharia Principles in the Trading Mechanism of Equity Securities in the Stock Exchange Regular Market. Based on the aforementioned thoughts, the authors are encouraged to compile a study entitled "A Review of Sharia and Business Law on the Implementation of Trading on the Indonesian Stock Exchange, Palembang Branch Office".

### **Research Methods**

This study uses a normative juridical approach (Kartajaya, 2006: 1). This research is a descriptive-analytical research which in its implementation the descriptive method is not limited to collecting and compiling data but includes analysis and interpretation of the meaning of the data. Because this research is expected to be able to provide a detailed, systematic and comprehensive description of all matters relating to trading on the Indonesian stock exchange.

### **Discussion and Results Indonesia Stock Exchange**

Before becoming the Indonesia Stock Exchange, it was called the Jakarta Stock Exchange. The Jakarta Stock Exchange was first opened on 14 December 1912, established in Batavia (Jakarta). Previously it was also called the Call-Exchange. The trading system is the same as an auction, each securities is called "Call", then the brokers submit a purchase request or selling offer until the price is right and a transaction occurs. The Jakarta Stock Exchange was closed during the first world war period, then reopened in 1925. The colonial government also ran parallel exchanges in Surabaya and Semarang. However, when the Japanese occupation occurred, it was stopped.

JSE Again stopped from 1940 to 1951 due to World War II which was then followed by the war for independence. Then reopened in 1952, by trading stocks and bonds issued by Dutch companies and was nationalized in 1958. The Jakarta Stock Exchange reopened on August 10, 1977 under the Capital Market Implementing Agency (Ministry of Finance). In 1991, The Jakarta Stock Exchange is a dynamic stock exchange in Asia.

Before 1977, the stock exchange was demand-following, but after this it became supply-leading. From 1977 to 1978 the public did not feel the need for the stock exchange. The company was also not enthusiastic about selling shares. From 1979 to 1984 twenty-three other companies followed up offering their shares on the Jakarta Stock Exchange. However, until 1988, none of the new companies sold their shares through the Jakarta Stock Exchange.

### **Sharia Shares Selection Procedure**

On the Jakarta Stock Exchange, there is the Jakarta Islamic Index (JII) which is 30 stocks that meet the sharia criteria set by the National Sharia Board (DSN). The JII index is prepared by the Indonesian Stock Exchange (IDX) together with PT Danareksa Investment Management (DIM). The Jakarta Islamic Index is intended to be used as a benchmark to measure the performance of an investment in stocks on a sharia basis.

The Jakarta Islamic Index consists of 30 types of shares selected from stocks that are in accordance with Islamic Sharia. Determination of the criteria for selecting shares in the Jakarta Islamic Index involves the Sharia Supervisory Board of PT Danareksa Investment Management. Shares included in the Sharia Index are issuers whose activities his business does not conflict with the sharia as mentioned above. In addition to the above criteria, in the process of selecting shares that are included in JII, the Indonesia Stock Exchange conducts selection stages that also take into account the liquidity aspects and financial condition of the issuer, namely:

1. Choosing a collection of shares with the main type of business that does not conflict with sharia principles and has been recorded for more than 3 months (unless included in 10 large cap).
2. Choosing shares based on annual or mid-year financial statements that have a maximum Liability to Asset ratio of 90%.
3. Selecting 60 shares from the above stock list based on the order of the largest average market capitalization during the last one year.
4. Selecting 30 stocks in order based on the liquidity level of the average regular trading value during the last one year.

Equity participation in the form of shares can be made based on the Musyarakah and Mudharabah contracts. Musyarakah contracts are generally carried out in private companies, while mudharabah contracts are generally carried out on shares of public companies (Soemitra, 2009: 138). Shares according to the National Syari'ah Council are defined as proof of ownership of a company that meets the criteria of sharia and does not include shares that have special rights (Yuliana, 2010: 71).

### **Islamic Law Related to Investment, Stocks and Capital Markets**

Rasulullah SAW. gives consumers the right to cancel or accept the transaction as is. This right given by Islam is called Haq al-Khiyar. This Khiyar right is called khiyar alsharth (khiyar which is used when one or more mutually agreed conditions are not fulfilled), there is khiyar al-s' ifah (khiyar used when the nature of the object of the transaction is not fulfilled), there is khiyar al-ru 'Yah (khiyar which is used because of the uncertainty of the commodity being transacted), and there is khiyar al-' aib (khiyar which is used when the commodity that is the object of the transaction contains defects) (Zuhaili, 1997).

Malikiyyah and Syafi'iyah which require that the profit sharing be determined by the percentage of a partner's invested capital of the total syirkah capital. According to fiqh principles, the law of origin of muamalah activities is permissible, unless there is a clear argument against it. Sutedi (2011: 23) ) explained that the capital market Law does not differentiate whether the capital market activities are carried out with sharia principles or not.

Islamic law expert Abdurrahman Isa, stated that the sale and purchase of shares is permitted by religion, including shares issued by banks, even though most of the bank's activities are for credit activities with an interest system, because Muslims today are in a state of emergency. (Lubis, 1999)

As it is mentioned in the Hadith: "*Working a person with his hands and every good sale and purchase, is one that does not contain fraud and betrayal*" (Narrated by Ahmad and Hākim).

### **Prohibited Practices on the Indonesian Stock Exchange Speculation**

It is rather difficult to distinguish between investment and speculation because they have the same goal, namely to obtain more returns on what has been spent. Alexander and Shape argued that investment is a sacrifice of certain values that apply today in order to obtain a value in the future whose size has not been determined. Tendelin defines investment as a commitment to a number of funds or other resources carried out at this time with the aim of obtaining future benefits. Investments in the capital market contain the terms gambling (gambling) and speculation. Gambling tends to be done without analysis, speculation involves analysts, sometimes even involving complete information and accurate data. However, both of these practices both aim to seek profit in the short term without paying attention to the interests of others. Speculation uses methods that violate the rule of the game.

Many investors choose stocks because they are able to provide an attractive rate of return. There are two benefits, namely dividends and capital gains. Dividends are the distribution of profits given by the company and come from the profits generated by the company. Dividends are given after obtaining approval from the shareholders at the General Meeting of Shareholders (GMS). If an investor wants to get dividends, then the investor must hold the shares for a relatively long period of time, that is, until the share ownership is in the period in which it is recognized as a shareholder entitled to dividends.

Dividends distributed by the company can be in the form of cash dividends, meaning that each shareholder is given cash dividends in a certain amount of rupiah for each share or it can also be in the form of share dividends, which means that each shareholder is given a dividend in the number of shares so that the number of shares owned by an investor will increase by there is a distribution of share dividends. Meanwhile, capital gain is the difference between the purchase price and the selling price. Capital gain is formed by the existence of stock trading activities on the secondary market.

Speculators argue that the person with the most control of the information will get the most return. They are only concerned with their own

interests and do not care about the interests and conditions of the economy and other market players. For speculators, the wealth obtained is the result of their own hard work. Actions like that are prohibited in the al-Qur'an (Diana Wiyanti, 2013).

### **Shari'ah Shares Operational Mechanism**

The Islamic capital market must meet the following conditions: Securities traded must represent halal goods and services and information must be open and transparent, must not be misleading, and there is no manipulation of facts and must not exchange similar securities with a different nominal value; Prohibition of engineering supply to get a profit above normal profit, by reducing supply so that the selling price increases and Prohibition of engineering demand to get a profit above normal profit by creating false demand; Prohibition of all investments that are not made in a spot (directly) and may make two transactions in one contract, provided that the object, actor and period are the same.

Some of the problems that often occur in Islamic stocks are:

1. Shari'ah shares that are allowed to enter the JII are required to have a maximum illegal value (haram / usury) of 15%.
2. In the process of buying and selling syari'ah shares, stock players will buy shares when the stock price is down and will sell it when the price is rising.
3. Islam also prohibits enjoying the benefits above the losses of others. In principle, the share value is 1: 1. If one party gets a profit, the other party will suffer a loss.
4. Sharia stocks, some investors deliberately throw stock prices so that the price falls because of too many offers. The small share owners then immediately sell back the shares at a very cheap price because they are worried that the share price will fall further and they lose more. (al-Mushlih, 2004).

In the capital market, the shari'ah prohibition above must be implemented in the form of rules of the game that prevent the practice of speculation, usury, gharar, and maysir. One of them is by setting a minimum holding period or minimum holding period. With this rule, shares cannot be traded. at any time, thereby reducing the motivation to seek profit from stock price movements alone. This restriction does reduce speculation but also makes investment in the capital market liquid. In fact, it is impossible for a rational investor to really need sudden liquidity so that he must liquidate the shares he holds, while he is prevented from having passed the minimum holding period. Metwally proposes a minimum holding period of at least one week. In addition, he also saw the need for a ceiling price based on the company's market value. Furthermore, Akram Khan complements, to prevent speculation in the capital market, the sale and purchase of shares must be followed by the handover of proof of ownership of the traded shares (Huda, 2008).

Sharia stocks do not have a secondary market because it is feared that it will impact speculation. Another problem regarding the operational mechanism of shari'ah stocks in Indonesia, namely an article written by Mamduh H. Hanafi and Syafiq Mahmadah Hanafi, in the journal of Islamic Economics and Business in 2012, based on their research results show that

there is no difference between the screening of Islamic stocks' and conventional stocks in Indonesia. Sharia stocks are represented by JII and conventional stocks by LQ45 (Hanafi M. M., 2012). In Indonesia, JII determines its criteria for kesyariahan with liquidity levels that must be in the range 17-49%, with interest income in the range of 5-15%, and company debt should not be more than 33%.

Exchanges in the stock exchange include: a limited liability company is a form of vanity corporation, the shares issued by a limited liability company with the aim of increasing capital and being traded in the capital market become vanity as well. namely the restriction that an issuer may not be involved in transactions and receivables of ribawi within a certain maximum limit. Usually the asset limit that contains usury is 30% of the total assets of the issuer. Little or much of the name usury is still haram (An-Nabhani, 2000).

Transactions must be carried out according to the principle of prudence and speculation and manipulation are not permitted, which contain elements of dharar, gharar, usury, maisir, risywah, immoral and tyrannical.

### **Indonesian Sharia Capital Market Regulation**

Regulations relating to the Indonesian Islamic capital market are issued by the OJK in the form of regulations and the government directly in the form of laws and supporting regulations. such as the fatwa on the Islamic capital market, although the fatwa is not binding, in practice the DSN-MUI fatwa is one of the references in developing the Indonesian Islamic capital market. To date, there are 17 DSN-MUI fatwas relating to the Islamic capital market. Three (3) DSN-MUI fatwas which are the basis for the development of the Islamic capital market are:

1. DSN-MUI Fatwa No: 20 / DSN-MUI / IV / 2001 concerning Guidelines for Investment Implementation for Sharia Mutual Funds
2. Fatwa DSN-MUI No: 40 / DSN-MUI / X / 2003 concerning Capital Market and General Guidelines for the Application of Sharia Principles in the Capital Market Sector
3. DSN-MUI Fatwa No. 80 / DSN-MUI / III / 2011 concerning the Application of Sharia Principles in the Equity Securities Trading Mechanism in the Stock Exchange Regular Market.

The Law of the Republic of Indonesia Number 8 of 1995 concerning Capital Market regulates everything related to the capital market. As the Capital Market Law contains definitions, definitions, and rules and regulations regarding activities in the capital market. Apart from the Capital Market Law and the DSN-MUI Fatwa, there are other regulations also related to the capital market, namely Bapepam-LK.

### **Conclusion**

From the studies that have been conducted by researchers, it can be concluded that the capital market in Indonesia is categorized into two categories, namely the conventional capital market and the Islamic capital market. The regulation regarding the Sharia capital market is so complete by the capital market in Indonesia. Starting from the Capital Market Law, the DSN MUI and BAPEPAM fatwas. The operational mechanism of the Sharia

Stock Exchange has been clearly implemented and regulated in this regulation. So that capital market players already understand things that are appropriate and not in accordance with Sharia

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